



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,693	09/22/2000	James H. Johnson	032028-0311096	1007
909 7590 12/10/2012 Pillsbury Winthrop Shaw Pittman, LLP (NV) PO Box 10500 McLean, VA 22102				
EXAMINER				
HELLNER, MARK				
ART UNIT		PAPER NUMBER		
3645				
NOTIFICATION DATE		DELIVERY MODE		
12/10/2012		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket_ip@pillsburylaw.com
margaret.drosos@pillsburylaw.com

Office Action Summary**Application No.**

09/667,693

Applicant(s)

JOHNSON ET AL.

Examiner

MARK HELLNER

Art Unit

3645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2012.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1, 2, 4-7 and 9 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1, 2, 4-7 and 9 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Reissue Applications

The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

The MPEP, paragraph 1414.01 states:

"the form must be completed so that it is clear that the supplemental reissue oath/declaration addresses all errors corrected subsequent to the date upon which the last previously reissue oath/declaration (whether original or supplemental) was filed. *For example, the form could be completed by specifying the date upon which the reissue application was originally filed, the reissue application number, and the date(s) of every amendment filed subsequent to the date upon which the last reissue oath/declaration (whether original or supplemental) was filed.* Any manner of completing the form so that affiant/declarant unambiguously states that every error corrected subsequent to the filing of the last filed reissue oath/declaration (whether original or supplemental) arose without deceptive intent will be acceptable. It will not be acceptable for the new ("catch-up") oath/declaration to simply refer to the reissue application as filed, even though the new oath/declaration may be submitted after an amendment..."

In the present reissue, the declaration filed 10/16/2012 does not specifically list all amendments filed subsequent the original oath.

A response filed is an amendment to the record. As a result, the dates of every amendment filed subsequent to the original oath/declaration comprise: 1/22/2008; 5/5/2009; 11/16/2010; 6/24/2011; 1/13/2012; 2/22/2012 and 10/16/2012.

The error statement is not specific enough.

It presently states:

At least one error upon which reissue is based is the unnecessary limitation of "visible" which was included in claims 1, 2, 5, 7 and 9.

It is suggested that this statement be amended to:

At least one error upon which reissue is based is the unnecessary limitation of "visible" which was included in claims 1, 2, 5, 7 and 9 was not needed for patentability.

Claims 1, 2 4-7 and 9 are rejected as being based upon a defective reissue oath/declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the oath/declaration is set forth in the discussion above in this Office action.

Any inquiry concerning this communication should be directed to MARK HELLNER at telephone number (571)272-6981.

/Mark Hellner/

Primary Examiner, Art Unit 3645